



STATE BOARD OF EQUALIZATION

October 15, 1992

This is in response to your letter of August 31, 1992. A facsimile transmission of your letter was received in this office on October 14, 1992.

We understand that you bought a --- continuous motion packaging machine to package your biopesticides in a new R&D formulation product. The price was a little over \$100,000. The machine was delivered from Illinois to California in August 1992.

You will test the machine in this state. In addition, you will make some sample packages to send to some universities for field trial purposes. You indicate that the machine will remain in California for only five months. You will then ship the machine to your new packaging plant in --- Illinois. The machine will be used there in December 1992 for some production. The machine will be used for full production next year.

You inquire as to whether you must pay California use tax under the circumstances described. It is our opinion that use tax applies in this case. California Revenue and Taxation Code section 6201 provides that the use tax is imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for storage, use or other consumption in this state. The machine will be used in this state for the purpose of making sample packages. California use tax thus applies, notwithstanding the fact that the machine will later be moved to Illinois and placed in full production use there.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:wk